HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.2095 of 1999

Dated day of June, 2007

Between:

JC-221925-N Subedar (Retd.) Ram Navmi Singh .. Petitioner

And

The Union of India, through the
Secretary, Ministry of Defence,
Government of India, New Delhi
and four others ..
Respondents

-
-
-

O R D E R:

This writ petition is filed seeking a direction to the 1st respondent to initiate proceedings against respondents 3 to 5 under the provisions of the Army Act, 1950 for the criminal acts committed by them jointly and severally between 15.6.1997 and 5.7.1997 under the garb of performance of official duty and unlawfully depriving the petitioner of his property worth Rs.3,00,000/-.

The grievance nurtured by the petitioner is that after his retirement from service on 31.3.1997 when he was at Pune to attend on his son, who was to undergo operation for kidney transplantation, the Army officials broke open the lock of his house on 24.6.1997 and took away all his household belongings, and though he gave a report to the Army officials concerned and the police officials, no action has been initiated.

The respondents filed a detailed counter affidavit stating that when the petitioner was in service he was provided with Government Married Accommodation Quarter No.91/9. After his retirement on 31.3.1997, he was asked to vacate the quarters both orally and by letters dated 9.4.1997 and 19.4.1997, but he did not vacate the premises. Thereafter, the petitioner, on 7.6.1997, requested the officials to provide a vehicle to shift his belongings from the Quarters to a rented premises at Raghavendranagar, Sainikpuri, Secunderabad. Accordingly, a vehicle was provided to him with a working party of 6 personnel and with their assistance he shifted all his belongings from the quarters to his rented house. Even after shifting, the petitioner had kept the quarters under lock and key, without handing over the quarters to the Department, as such, the authorities had to break open

the premises on 24.6.1997. The authorities took an inventory of all the items found in the quarters and handed over the quarters with Government items to the appropriate Government officials in 1 EME Centre and some private items, which were found in the quarters were kept in a room under lock and key and sealed.

The learned counsel for the petitioner has drawn my attention to the provisions of Section 3, 3(A) and 4 of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for brevity "the Act"), which deal with appointment of Estate Officers, eviction from temporary occupation and issuance of notice to show cause Notice against an order of eviction.

In the instant case, according to the learned counsel for the petitioner, no notice is served on the petitioner, but the respondents have categorically denied in their counter stating that the petitioner was served with letters dated 9.4.1997 and 19.4.1997. Therefore, it cannot be said that the action of the respondents is contrary to Section 4 of the Act. Further, when once the petitioner retired from service as early as on 31.3.1997, he is duty bound to vacate the premises within a particular period and if continues to occupy the premises without any authority, definitely it is for the authorities to do anything in accordance with law. When the action of the respondents is looked at in those lines, it is not as though immediately after his retirement the petitioner was asked to vacate the premises. They gave him sufficient time to vacate the premises and when the petitioner requested the authorities to provide a vehicle and men, the authorities provided a vehicle and 6 personnel and he shifted his belongings from the quarters to a private accommodation on 7.6.1997. When once he shifted all his belongings there is no authority to him to keep the premises again under lock and key.

In the facts and circumstances of the case, I see no reason to

question the action of the respondents. Of course, it is the grievance of the petitioner that he gave a report to the police concerned, but they have not initiated any action. As the police officials are not added as respondents in this writ petition, no direction can be issued to them.

Hence, I see no merits in this writ petition and the same is accordingly dismissed. No costs.

_____

.06.2007

bcj